

**LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY**

Item No. 3
Mtg. Date June 16, 2015
Dept. City Manager's Office

Item Title: Interim City Manager Agreement

Staff Contact: Corinne Russell, Human Resources Manager

Recommendation:

Adopt a resolution (**Attachment A**) approving an Employment Agreement for Specified Interim City Manager Services with Kathleen J. Henry.

Item Summary:

Mayor Sessom and Councilmember Gastil were tasked to consider candidates to serve as the City's interim city manager. Based on their recommendation to the City Council, staff was directed to prepare an employment agreement with Ms. Kathleen J. Henry for said services. Staff has prepared a resolution (**Attachment A**) and an agreement for employment services (included in **Attachment A**) for City Council consideration.

The employment agreement includes the following significant sections:

- Duties – the Interim City Manager will perform the duties, obligations, roles and responsibilities identified in Chapter 2.04 of the Lemon Grove Municipal Code, by reference, and under the direction and control of the City Council.
- Term of Employment – the Interim City Manager will begin work on July 1, 2015 for a term not to exceed 960 hours and is considered an “at will” employee.
- Compensation – the City will provide compensation of \$91.41 per hour for a maximum of 60 hours per pay period. The City will also provide an auto allowance (\$500 per month) and mobile allowance (\$35 per month). No benefits are included with the compensation.

Fiscal Impact:

Based on the maximum number of hours per paid period, the fiscal impact for the estimated six month period will be approximately \$36,100. The Fiscal Year 2015-16 budget allocates funds for this expenditure.

Environmental Review:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

A. Resolution

Attachment A

RESOLUTION NO. 2015-_____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE, CALIFORNIA
APPROVING AN EMPLOYMENT AGREEMENT FOR SPECIFIED INTERIM
CITY MANAGER SERVICES**

WHEREAS, the City Council desires to approve an employment agreement for specified interim city manager services due to the resignation of current City Manager Graham Mitchell; and

WHEREAS, Kathleen J. Henry possesses the special skills necessary to satisfactorily perform said services; and

WHEREAS, an Employment Agreement for Specified Interim City Manager Services has been prepared and reviewed; and

WHEREAS, it is the best interest of the City for said agreement to be approved. |

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemon Grove, California hereby:

1. Approves an Employment Agreement for Specified Interim City Manager Services (Exhibit 1) with Kathleen J. Henry; and
2. Authorizes the Mayor to execute said agreement. |

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Attachment A

EXHIBIT 1

EMPLOYMENT AGREEMENT FOR SPECIFIED INTERIM CITY MANAGER SERVICES

This Employment Agreement (this "Agreement") is made and entered into this ____ day of June, 2015, by and between the City of Lemon Grove, a municipal corporation ("City"), and Kathleen J. Henry, an individual ("Employee").

RECITALS

WHEREAS, City's current City Manager tendered his resignation to City effective June 16, 2015;

WHEREAS, therefore, City desires to appoint Employee to perform specified interim city manager services on a temporary and non-permanent basis pursuant to this Agreement;

WHEREAS, the parties have determined that Employee possesses the special skills necessary to perform satisfactorily pursuant to this Agreement;

WHEREAS, Employee certifies she has been retired for more than 180 days preceding the effective date of this Agreement;

WHEREAS, Employee certifies she has not received any unemployment insurance compensation arising out of public employment for the 12-month period prior preceding the effective date of this Agreement.

WHEREAS, accordingly, City shall compensate Employee pursuant to Government Code Sections 7522.56 and 21221(h) for her performance related to this Agreement; and

WHEREAS, all duties, obligations, roles and responsibilities required of Employee by City arise solely and exclusively pursuant to this Agreement.

NOW THEREFORE, in consideration of these recitals and the mutual covenants contained herein, City and Employee agree as follows:

1. DUTIES

- 1.1. Employee shall perform the duties, obligations, roles and responsibilities identified in Chapter 2.04 of the Lemon Grove Municipal Code, by reference, and under the direction and control of the City Council.
- 1.2. City and Employee agree that all duties, obligations, roles and responsibilities required of Employee by City arise solely and exclusively pursuant to this Agreement.
- 1.3. Employee agrees that she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with her performance pursuant to this Agreement. Employee further covenants that in the performance of this Agreement she shall be subject to 8100 *et seq.* and the City's Conflict of Interest Code.

2. TERM OF EMPLOYMENT

- 2.1. The term of this Agreement begins July 1, 2015 for a limited duration and shall not exceed 960 hours, or the time a permanent replacement begins employment, whichever is less, unless otherwise terminated pursuant to Section 2.2 of this

Attachment A

Agreement.

- 2.2. The Agreement may be terminated immediately upon notice. Employee acknowledges and agrees that she shall serve at the pleasure of City Council on an "At Will" basis without due process.

3. COMPENSATION

- 3.1. City agrees to compensate Employee in the amount of \$91.41 per hour, not to exceed 60 hours in a pay period, for services actually rendered pursuant to this Agreement as total compensation, payable in installments at the same time and manner as other employees of the City. Employee acknowledges and agrees that she shall have no rights to any other benefits, including vacation, retirement, or otherwise which accrue to other employees of the City, and hereby expressly waives any claim to any such rights. Employee shall be limited to working no more than 960 hours per fiscal year for all employers.
- 3.2. City agrees to compensate Employee \$500.00 per month for an auto allowance and \$35.00 per month for mobile phone allowance.
- 3.3. Employee agrees to provide services to the City required pursuant to this Agreement as an Employee of City. Accordingly, therefore, City and Employee agree that City shall indemnify Employee as if she were a regular employee pursuant to the provisions of Title 1, Division 3.6 of the Government Code. Employee's compensation shall be subject to all required deductions and withholdings as any other employee of City, provided however, that no deductions or withholdings shall be made for the purpose of contribution to any employment benefits regularly provided to City employees.

4. OTHER TERMS AND CONDITIONS OF APPOINTMENT

- 4.1. City, in consultation with Employee, shall fix any other such terms and conditions of employment as it may deem necessary from time to time relating to the performance of employment provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Municipal Code or any other applicable law.

5. NOTICES

Notice pursuant to this Agreement shall be given by deposit in the custody of the United States Postal service, postage prepaid, addressed as follows:

CITY: Attn: Mayor Mary Sessom
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

EMPLOYEE: Attn: Kathleen J. Henry

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Attachment A

6.0 GENERAL PROVISIONS

- 6.1. The text herein shall constitute the entire agreement between the parties.
- 6.2. Employee shall not assign any interest in this Agreement, and shall not transfer any interest in the same without prior written consent of City.
- 6.3. Employee agrees that all documents and writings of any type produced in the performance of this Agreement and delivered to the City or staff shall be the sole property of the City including all rights therein of whatever kind and whether arising from common or civil law or equity. Upon termination of this Agreement for any reason, or upon expiration of this Agreement, all such documents and writings produced in the performance of this Agreement shall be transferred to and become the property of City upon its request without additional compensation.
- 6.4. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.
- 6.5. This Agreement shall be governed by the laws of the State of California and any litigation brought pursuant to it shall be in San Diego County. Employee expressly waives any right she might otherwise have as provided in Code of Civil Procedure Section 394 to remove any action from San Diego County.
- 6.6. The Agreement constitutes the entire Agreement between City and Employee and supersedes and replaces all prior or contemporaneous agreements, understandings or commitments between City and Employee. No waiver, alteration or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of both City and Employee.
- 6.7. The Agreement may be signed in counterpart or duplicate copies and any signed counterpart or duplicate copy shall be equivalent to a signed original for all purposes.
- 6.8. The Agreement shall not be construed against any one party, but shall be construed as if jointly prepared by City and Employee.

IN WITNESS WHEREOF, City has caused this Agreement to be signed and executed by the Mayor on behalf of City, and Employee has signed and executed this Agreement the day and year first written.

EMPLOYEE

CITY OF LEMON GROVE

Kathleen J. Henry

Mary Teresa Sessom, Mayor

Date

Date

APPROVED AS TO FORM:

James P. Lough, City Attorney